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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

14 Cr. 550 (PKC)

5 JOHN RE,

6 Defendant.

7 -----x

8 May 12, 2015  
9 11:50 a.m.

10 Before:

11 HON. P. KEVIN CASTEL

District Judge

12 APPEARANCES

13 PREET BHARARA

14 United States Attorney for the  
15 Southern District of New York

ANDREW C. ADAMS

Assistant United States Attorney

16 CHRISTOPHER FLOOD

17 Attorney for Defendant

18 Also present: MERIDITH SAVONA, FBI  
19 BRET CARLSON, FBI  
20 KATE HADLEY, Paralegal

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(Case called)

THE DEPUTY CLERK: Government ready?

MR. ADAMS: Good morning, your Honor. Andrew Adams for the United States. With me at counsel table is Special Agent Meridith Savona and Detective Bret Carlson.

For the Court's information, there are a number of victims in the audience today. I just point them out to the Court.

THE COURT: We will be getting to that shortly.

For the defendant.

MR. FLOOD: Good morning, your Honor. Christopher Flood, Federal Defenders of New York, on behalf of Mr. Re, who is seated at counsel table. Also with me at counsel table is a paralegal from our office, Ms. Kate Hadley.

THE COURT: All right. Good morning to you all.

Mr. Flood, the first thing I want to do is go through with you the materials that I have, and the question will be whether I have everything I should have.

I have a presentence report, recommendation and addendum from probation, dated February 20, 2015. I have a memorandum from you with Exhibits A through I, dated April 28, 2015. I also have from you a letter dated May 11, 2015, which annexes additional letters of support.

I have from the government a letter dated May 5, 2015, which helpfully came with a CD-ROM or DVD-ROM which contain a

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1 variety of materials, which I have reviewed, including some  
2 victim statements.

3 I have a letter dated May 11, which was handed up to  
4 me, and it is from an individual Anders Karlsson, and I have  
5 not read it, don't know what it relates to, but I will read it  
6 in a moment.

7 I also have a proposed order of restitution and a  
8 preliminary order of forfeiture as to specific property as well  
9 as a consent preliminary order of forfeiture money judgment.

10 Mr. Flood, do I have everything I should have?

11 MR. FLOOD: I believe you do, Judge.

12 THE COURT: Same question for the government.

13 MR. ADAMS: Yes, your Honor.

14 And the May 11 letter from Mr. Karlsson is a victim  
15 impact statement that was given to me today.

16 THE COURT: Thank you.

17 Mr. Flood, has the defendant read, received and  
18 reviewed the presentence report, recommendation and addendum?

19 MR. FLOOD: Yes.

20 THE COURT: Does the defendant have any objections to  
21 the facts set forth in the presentence report?

22 MR. FLOOD: No, your Honor, other than that that's  
23 mentioned within the presentence report, the second disclosure  
24 mentions one of our objections.

25 THE COURT: This relates to the nolo contendere

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1 conviction in a Texas court, is that correct?

2 MR. FLOOD: That's correct.

3 THE COURT: And I understand the government has no  
4 objection to excluding that conviction from my consideration in  
5 this case.

6 MR. ADAMS: That's correct, your Honor.

7 THE COURT: So it will be excluded from consideration.

8 With that one change, does the defendant have any  
9 other objection to the facts set forth in the presentence  
10 report?

11 MR. FLOOD: No, your Honor.

12 THE COURT: Does the government have any objections to  
13 the facts set forth in the presentence report?

14 MR. ADAMS: No, your Honor.

15 THE COURT: Based upon my review, I adopt as my  
16 findings of fact the facts set forth in the presentence report.

17 With regard to the guideline calculation, I propose to  
18 conclude that the defendant is in total offense level 20,  
19 Criminal History Category II, and that the guideline range for  
20 imprisonment is therefore 37 to 46 months' imprisonment, with  
21 the applicable fine range of 7500 to 5 million.

22 Any objection from the defendant?

23 MR. FLOOD: No, your Honor.

24 THE COURT: Same question for the government.

25 MR. ADAMS: No, your Honor.

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1           THE COURT: I adopt those as my guideline  
2 determinations.

3           I will now give Mr. Flood an opportunity to speak on  
4 behalf of the defendant.

5           MR. FLOOD: Thank you, your Honor.

6           Your Honor, this has a very complicated history. In  
7 this case, I think a reasonable first impression that the  
8 Court, taking a look at the allegations, could think that Mr.  
9 Re's conduct might have come from a much more sophisticated  
10 person than Mr. Re in fact actually is.

11           The history and the complexity and the nature of the  
12 scheme notwithstanding, Mr. Re himself is, in fact, an  
13 incredibly damaged, incredibly weakened person that we have  
14 gone some distance to try and present to the Court, and I hope  
15 that the attachments that we have given your Honor, certainly  
16 from Dr. First, substantiate it.

17           This is a gentleman whose personal history is nothing  
18 short of horrifying, and the effects of that personal history  
19 on his mental state are real, and that mental state has had a  
20 specific and direct effect on the offense conduct in this case.

21           Mr. Re really was uniquely, and I guess the word I am  
22 searching for here is vulnerable to his own weaknesses, living  
23 where he was, in the environment of Eastern Long Island.

24           If I can just indulge in the Court's patience for a  
25 moment. Eastern Long Island is the Hamptons, a place of

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1 immense wealth and really striking class differences, a place  
2 where Mr. Re is really on the low end of those class  
3 differences, and where Jackson Pollock paintings and the sort  
4 of art world out there presented an opportunity to really just  
5 leap into a different world of security, which he desperately  
6 needed for his family, which in the PSI sets forth the  
7 incredible health struggles Mr. Re's family has been suffering  
8 with for at least the last 15 years, the cancer that his  
9 daughter suffered at a very young age.

10 If I could just take a moment to point out that many  
11 members of his family are here in the courtroom today, although  
12 his daughter, Amanda Re, who I am speaking of right today,  
13 couldn't be here because she had child-care responsibilities  
14 back in Eastern Long Island. His daughter Amanda had cancer at  
15 age eight and had to have a leg bone removed right at the same  
16 time that this offense conduct began. But here in the  
17 courtroom today is Rhonda Re, his wife; Gloria Re, his mother;  
18 Alexia Re, his other daughter; and Christopher, a close family  
19 friend from the neighborhood.

20 But along with his daughter's cancer, also his wife  
21 has been cancer stricken twice, a long-term degenerative  
22 disease, Lyme disease, has been in the family. His mother has  
23 had some health struggles. His father had renal failure and  
24 was struggling towards the end of his life. So the concept  
25 that Mr. Re could help was right there as a massive temptation,

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1 and so many fraud cases begin this way.

2 Jackson Pollock, as I am sure the Court has seen in  
3 the media, and perhaps in other cases, and I think some of the  
4 materials even perhaps presented by the government, but I know  
5 presented by us, this artwork is fraught with contested  
6 authenticity. I am not an expert, but certainly there is a  
7 contest out there about which are authentic Pollocks and which  
8 aren't. And Mr. Re fell victim to his own hopes and dreams  
9 about how, perhaps, he could leap into a place of greater  
10 security for his family here. But it's related to his need to  
11 be somebody else, to be somebody, that's directly related to  
12 the struggles that he went through as a child and the  
13 incredibly fraught mental illness that Dr. First identifies.

14 Dr. First is not the kind of psychiatrist who is just  
15 going to sign off on this kind of diagnosis. He is hardly  
16 somebody who is a fly-by-night physician. He took a long look  
17 at Mr. Re. And the government's attempts, enthusiastic as they  
18 are, to suggest that Dr. First should be ignored, as he only  
19 talked to Mr. Re and his family, that's just what psychiatrists  
20 do. I don't know who else he should have talked to, perhaps  
21 the victims in the case, I don't know.

22 Dr. First talked to Mr. Re, as he should have, and he  
23 reviewed Dr. Friedes' notes and records as he should have. And  
24 he found that Mr. Re's issues are real, and they are  
25 substantial, and they are long held, and they are extremely

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1 unique. And Mr. Re's conduct here related, again, to this need  
2 to fill a hole in his personality. It's almost fabulous to try  
3 and invent this provenance to his life, to become something, to  
4 believe in something, and, really, when Dr. First is talking  
5 about the submarine, the Deep Quest, and there is a moment of  
6 great candor between Mr. Re and Dr. First about the Deep Quest,  
7 which isn't the Deep Quest, it's a mockup of a movie prop of a  
8 submarine that looks like the Deep Quest, but it's not the USS  
9 Deep Quest which has great historical significance and is in a  
10 museum on the West Coast.

11 THE COURT: In the state of Washington. And he said  
12 to Dr. First, I wanted it to be true.

13 MR. FLOOD: I wanted it to be true.

14 THE COURT: I have read it.

15 MR. FLOOD: So much of that underlies exactly what Mr.  
16 Re's offense conduct is about about these paintings. He  
17 believed and wanted this to be true. Because it would make him  
18 the person who actually was close to Jackson Pollock, and  
19 actually was meant something in East Hampton, and was cool with  
20 the art world, and was actually friends with Brad Pitt.

21 But when he got this money, what did he do with it?  
22 He tried to become somebody different than actually who he was.  
23 He didn't just get different color contacts. He went to Jordan  
24 and tried to change his eye color. This is a person who is  
25 trying to become somebody different, trying to become somebody



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1 actually substantial.

2 THE COURT: Let me ask a basic question.

3 MR. FLOOD: Sure.

4 THE COURT: Your client has not objected to the facts  
5 set forth in the presentence report, and I have therefore  
6 adopted them as my findings of fact. The Jackson Pollocks and  
7 the Willem de Koonings are fakes, correct?

8 MR. FLOOD: To the extent that we have any idea, yes.

9 THE COURT: Where did he get them from? Who painted  
10 them? How did he come in possession of them?

11 MR. FLOOD: As he said in his --

12 THE COURT: He declined to discuss his offense conduct  
13 with the office of probation on the advice of counsel.

14 MR. FLOOD: That's right.

15 THE COURT: So I am asking the question. You can  
16 answer it or refrain from answering it.

17 MR. FLOOD: Your Honor, as he said in his allocution,  
18 he found them in a storage bin in Manhattan.

19 As Mr. Re said to me, West East is the name of the  
20 storage place in Manhattan.

21 THE COURT: I don't even know what that means, find it  
22 in a storage unit. Find it in his storage unit? Find it in  
23 somebody else's storage unit? Find it in a hallway of the  
24 storage company?

25 MR. FLOOD: The storage units are auctioned,

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1 typically, when they are no longer paid for, and people obtain  
2 the storage units, and then once they obtain the storage units,  
3 they get what is inside them.

4 THE COURT: And?

5 MR. FLOOD: And inside them was these paintings.

6 THE COURT: You left something out. Someone purchased  
7 this at an auction or this man purchased it at an auction?

8 MR. FLOOD: I am hearing this out of my right ear and  
9 speaking out of my mouth. So if I could just have a moment.

10 THE COURT: Sure. Take your time.

11 (Pause)

12 MR. FLOOD: So according to Mr. Re, his brother,  
13 Charles Re, was purchasing storage units for a living at an  
14 auction, which is not uncommon, and they purchased this unit  
15 and that's where they obtained the painting.

16 THE COURT: Wouldn't there be documentation of that  
17 story if that were true?

18 MR. FLOOD: I would expect so.

19 THE COURT: So your client adheres to the possibility  
20 that these are Jackson Pollock originals, is that what I am  
21 hearing today?

22 MR. FLOOD: No, your Honor. We are somewhat  
23 bewildered by the position the government took in their letter,  
24 because what they ignored in their letter was the clause that  
25 Mr. Re stipulated to on page 22 of the transcript of the plea,

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1 in which he specifically disclaimed the authenticity of the  
2 paintings. That was part of the plea agreement, and it's in  
3 the PSI as well.

4 So, they pointed out something about 2005, saying that  
5 that was somehow artfully crafted. That's the indictment. The  
6 indictment says from 2005 forward, and so he allocuted to 2005  
7 forward, which on advice of counsel, which is exactly how the  
8 work is done in this district. That's not artfully crafted by  
9 Mr. Re; it's the federal defenders advising Mr. Re what to say  
10 because it tracks the indictment. There is nothing about him  
11 playing fast and loose about language there.

12 And then the specific language on page 22, and it's in  
13 the government's exhibit, where Mr. Adams says it is a unique  
14 extra piece to the allocution in this case, we are asking for a  
15 stipulation that says nothing that was ever sold was authentic.  
16 That's exactly what he said.

17 THE COURT: What did Mr. Re do with the money?

18 MR. FLOOD: It's been wasted between trips to Jordan,  
19 spent on refurbishing this ridiculous submarine.

20 THE COURT: He says he spent a million dollars on  
21 refurbishing the submarine, but he was unable to produce any  
22 documentation for that.

23 MR. FLOOD: Over the course of years. It was down in  
24 a shipyard in Galveston I believe.

25 THE DEFENDANT: Pier 77.

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1 THE COURT: There is no invoices for that.

2 THE DEFENDANT: I never got invoices from Rick Ryan,  
3 the owner of the marina, but if I knew I had to have them, I  
4 would have had them.

5 THE COURT: The presentence report was issued in  
6 February. It notes that the defendant had not come up with any  
7 documentation for the claim. It's been available to be  
8 reviewed by counsel. And if anybody had any documentation that  
9 they wanted to provide, having read the statement in the  
10 presentence report, presumably, they would have provided it.

11 What do I make of the fact that according to the  
12 presentence report, the defendant disclosed an automobile, a  
13 Dodge Viper, to the marshal service, but didn't list it on his  
14 assets.

15 MR. FLOOD: He sold the Viper. I have asked him about  
16 that. The 2006 Viper, he had sold it before the --

17 THE COURT: When that showed up in the presentence  
18 report, did anybody tell probation that or give them some  
19 support for that?

20 MR. FLOOD: No, your Honor.

21 THE COURT: Go ahead.

22 MR. FLOOD: Well, where do we pick up again?

23 Can I have a moment?

24 (Pause)

25 MR. FLOOD: Your Honor, the best that I can understand

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1 Mr. Re's net worth right now, having been to his household, is  
2 its definitely in the red. I have walked the grounds of their  
3 home. It is small, to say the least. It's crowded. And to  
4 the extent that there are any assets, it's the submarine, which  
5 is a strange statement indeed to be saying out loud.

6 Mr. Re himself is on a battery of medications dealing  
7 with the psychiatric issues, and that is a relatively recent  
8 development in his life. As he said in his letter to the  
9 Court, which I am sure the Court has studied well, I think he  
10 says this kind of thinking, sort of consequential thinking, has  
11 come relatively late in life. And I think that's a candid and  
12 true statement from him. He has lost a lot behind his offense  
13 conduct in this case.

14 From the frauds here, he may have gained money, which  
15 from our ability to discern is gone, but he did lose  
16 relationships. He lost friendships. He did consider these  
17 people to be friends. And one thing that we know from the  
18 letters that are submitted, and it is part of the complexity  
19 that Mr. Re presents, is that he is an incredibly valuable  
20 person to the people that care about him and he cares about.  
21 He is a valued father, husband, son. As a member of his  
22 community, their home is open to people who need help. And  
23 possibly because Mr. Re has needed that help and didn't get it  
24 when he needed it, he is an incredibly generous person, to the  
25 point of almost irrationality, giving away the things that he

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1 needs to people who are in need, homeless people.

2 To be completely candid, reading some of the letters,  
3 when I was reading them they didn't sound true to me, until I  
4 started reading them in sequence, like him going into burning  
5 cars to pull people out. That sounded entirely self-serving,  
6 until reading it from the perspectives of other people saying,  
7 no, this is actually true, this really happened. And Mr. Re,  
8 and his character, really is the type of person who would go  
9 into a burning car to pull someone out, a stranger. And how to  
10 harmonize that with the character that is presented so dimly in  
11 the victim statements, the only way that it makes sense, from  
12 the defense perspective, and I think it is really true, is the  
13 sort of self-aggrandizement that Dr. First speaks to.

14 So where does that leave the Court? Because I think,  
15 obviously, the Court has the power to just imprison Mr. Re, and  
16 I know that there are plenty of angry victims here who want to  
17 see that happen, but I don't think that solves any problems.  
18 That certainly punishes, but is that just punishment, because  
19 where does that leave us? And where does that leave Mr. Re and  
20 will he get the proper psychiatric treatment he needs in  
21 prison? I sincerely doubt it. And will that really address  
22 the underlying causes of this significant problem that brought  
23 him to this issue?

24 We strongly urge the Court that it won't, that what we  
25 propose is really the solution here. If some form of directed

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1 punishment, be it home confinement, a powerful message through  
2 community service that builds on the true character that John  
3 Re has, with the requirement that he continue the psychiatric  
4 treatment that he truly needs, will answer the issues that  
5 actually caused this fraud and will allow him to work.

6 THE COURT: Let me say for the record, for both the  
7 benefit of the government and for defense counsel, I am  
8 considering a sentence outside the advisory guideline range. I  
9 have considered and will consider one below the advisory  
10 guideline range, and I have and will consider one above the  
11 advisory guideline range. So I want to state that for the  
12 record to the extent that is relevant to either set of counsel.

13 MR. FLOOD: So, obviously, in light of the Court's  
14 comment, we are strongly urging the Court to consider below the  
15 guideline range. We do not feel that prison is appropriate  
16 here. The issue is again what brought Mr. Re to his conduct.  
17 And where I want to end is where I really began. This is a man  
18 with severe mental health issues that are the product of  
19 immense childhood trauma, which I have gone on at length, or  
20 Dr. First really went on at length on paper, and for the  
21 benefit of the remaining privacy Mr. Re has I am not going to  
22 belabor in public here, but I know the Court understands what I  
23 am talking about. It was violent and persistent and absolutely  
24 justifies the kind of mental break that Mr. Re certainly has  
25 had. And that mental break, joined to all the other pressures

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1 in life, I am not saying it's an excuse, but it's an  
2 explanation for this kind of offense conduct.

3 It is one thing if he is just out there trying to find  
4 a way around legitimate employment to try and create a fraud to  
5 make money. You say, OK, deterrence has its maximal value for  
6 white-collar crime. That's one thing. But that's not the  
7 situation Mr. Re presents. We have a mental health crisis that  
8 Mr. Re is. He is a persistent mental health crisis, and he can  
9 get the right treatment, and he is in it now, and to disrupt  
10 that will present problems later.

11 So the invitation to incarcerate for how long?  
12 Forever? Even as stern as I know the Court has been in the  
13 past, we can't do that forever. The point is to deter. And  
14 the key ingredients for deterrence for Mr. Re, for specific  
15 deterrence, the first ingredient for that is contrition, right?  
16 The conscious awareness that he has done something wrong. And  
17 this man has been lacerating himself for the entire time that I  
18 have been representing him. His knowledge that he has done  
19 something wrong, the pain that he expresses in our  
20 consultations, it's made it across the page from what he has  
21 lost and what he has done to other people, the loss of his  
22 personal sense of honor is very real and very candid.

23 So, for as much as I think the defense and government  
24 have not quite met eye to eye in our submissions, I really  
25 think there is a lot more clarity here about who Mr. Re is and



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1 the responsibility he has taken, and I think that really points  
2 towards a substantial departure from the guidelines, a  
3 direction of nonincarceration, mental health treatment, and  
4 allowing this man to be there for his family who need his help,  
5 to build towards restitution, which, by the way, the submarine  
6 is not an insubstantial asset, but allow him to pay back the  
7 wrongs that he has done, which he wants to do so badly, and to  
8 continue that momentum. His means are modest, but he wants to  
9 be able to do that.

10 If I could just have a moment.

11 (Pause)

12 MR. FLOOD: Thank you, your Honor.

13 THE COURT: Thank you, Mr. Flood.

14 Mr. Re, this is your opportunity to speak, to address  
15 the Court directly, to bring to my attention any facts or  
16 circumstances that you believe I should take account of in  
17 passing sentence upon you today. If there is anything you want  
18 to say, Mr. Re, this is the time to say it.

19 THE DEFENDANT: I have been having a pretty hard time  
20 lately thinking about all of this. I am 55 years old. No  
21 55-year-old wants to go to jail. I did something wrong. I  
22 lied. I know what I did. I also know that I am not going to  
23 try and fight nothing here, but I could say to you that I have  
24 been fooled many times myself. I have lots of fake art in my  
25 shed that I can never sell again because I know it's fake, and

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1 I bought it. I understand what my victims must feel. I had a  
2 love for John Szemansco, and especially Peter King, he was a  
3 very good friend of mine, and now I don't know if I will ever  
4 even talk to him again.

5 I can honestly say that I didn't know if they were  
6 real or wrong. I didn't. And I didn't know who to go to with  
7 them. So I asked Vered Gallery in East Hampton if they were  
8 right with one of the de Koonings. I tried to get some advice  
9 when I first found them, before I sold one. And they bought 22  
10 de Koonings from me saying that they were authentic, and some  
11 were authenticated, some weren't, some were knocked down just  
12 like those.

13 I was a woodworker. I had over 300 sales of art and  
14 antiques, and especially art books, on eBay, and I have never  
15 had one negative complaint from a buyer. And they are allowed  
16 to leave the complaint or the compliment to their satisfaction  
17 on eBay for everyone to read to see what kind of buyer you are.  
18 Are you an honest buyer? Are you a con man? If you don't have  
19 any feedbacks, and obviously you keep changing your name  
20 because you are a con man. I stayed with the same two accounts  
21 for 12 years and had a very good reputation, and I have  
22 excellent feedbacks, over 300, which I should have brought them  
23 but I didn't. If you want them, I will mail them to you  
24 directly tomorrow if you feel you want to see them. I have  
25 never had a person come to me and say, why did you sell me this

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1 fake?

2           Then I had an unfortunate incident where I decided  
3 that I would take art for the Pollocks instead of money. And I  
4 found myself in a situation where I accepted 24 Picasso's, that  
5 would have been worth 50 to 60 million dollars if real, and to  
6 me they looked very real, and I thought this was a great thing.  
7 I thought, wow, people are going to get rich. I have always  
8 retained a percentage of what I sold. I have never read of  
9 anybody that was trying to rip somebody off that tried to stay  
10 married to who they sold the art to. And all those Picasso's  
11 came from collector number two, the main reason I am here  
12 today. He gave me fake art and traded it for my art, and all  
13 his art turned out to be fake too.

14           And we talked about it and I told him, don't worry  
15 about it, because we knew we were taking a risk. We never knew  
16 that these were real or right, and he agreed with me, and I  
17 have the e-mail. And that was a communication that John  
18 Szemansco never reflected to the Court, that I made clear, I  
19 don't know, you're buying these on your own, and if I were you  
20 I would do some homework, and he never did. I didn't want to  
21 hurt John. John is divorced with a single son, and he is a  
22 good man, and everybody I have dealt with, to me, seemed to be  
23 at least trying very hard to be legitimate and straightforward  
24 with me.

25           I am not what these papers say I am. I will tell you

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1 right now I am not what these papers say I am. I swear to you  
2 on my grandson. These papers are horrible. Every one of these  
3 reports that talk about me are horrible. They make me out to  
4 be some guy that wants to rip people off and go out there and  
5 steal pocketbooks from old ladies. And I'm not that person.

6 Sorry for raising my voice, your Honor. I'm sorry.  
7 But I have got to tell you, you want to hear it from me, I will  
8 tell you, OK. I have given more to people homeless, and I have  
9 saved more lives and risked my life for people, and now I am  
10 going to go to jail for selling fake art that I didn't even  
11 know was fake when they were giving me fake art back. I will  
12 make full restitution. I tell you right now, your Honor, I  
13 will make restitution to everyone that wants it. I will do it  
14 in a shorter period of time than you think. I will. I will  
15 work like a dog. I will do whatever I have to, legally  
16 obviously.

17 I don't know what else to do. I have been crying  
18 every day with my family for the last month. OK? My daughters  
19 tell me they don't want me to leave home, and I say, I can't  
20 help it, they are going to put me in jail. What am I supposed  
21 to do? I didn't know these damn things were fakes. And you  
22 know what, there's laboratories that say they are real.

23 Meredith Savona came to my house and showed me a thing  
24 where I said authentic on eBay. She didn't know it had a  
25 forensic lab report. She told the newspaper I was mentally

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1 ill. People were making fun of me to my daughters because they  
2 said your father is a retard or something. You're not supposed  
3 to tell newspapers about my mental illness. That's against the  
4 law. I have been stepped on like a cockroach from everybody in  
5 this investigation. I am excluding you, your Honor, of course.

6 If you can see it through somehow to just -- I will  
7 make an agreement with you, your Honor, that if I didn't follow  
8 through with everything that you wanted me to do, then you know  
9 what, you can throw me in jail for whatever time you want. But  
10 if you just give me one chance to make up for this, and make it  
11 right, I will make you proud. I will make you glad that you  
12 made that decision. I will. I will do it legally. I will do  
13 what you want me to do. I will make it better. But I can't  
14 make it better in jail. What am I going to do in jail? I am  
15 not going to go to jail at 55. They are going to end up  
16 locking me up in some crazy ward because sometimes -- I just  
17 forgot what I was saying.

18 Give me five years' house arrest and watch me for ten  
19 years. I don't care. You will see I will not make any more  
20 mistakes. This is the biggest lesson of my life. And I have  
21 made mistakes before, and you know it, I know you do. I am  
22 ashamed that I didn't know. I should have taken the time and  
23 done some homework.

24 The storage unit was also filled with a lot of African  
25 art. I sold some of that too and it turned out to be all real.

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1 But it wasn't very expensive stuff; it was a low price, 2,000,  
2 3,000, 500. The idea that that art was real led me inside to  
3 say that everything in this unit, I just hit the jackpot of my  
4 life, God just put his hand upon me and said, I am going to  
5 bless you with this storage unit, and now here I am facing  
6 jail.

7 I wish my brother was here to tell you how excited I  
8 was. I had tears in my eyes. I thought I would be able to --  
9 I was going to start a homeless foundation because I have  
10 something about the homeless, because when I was younger I had  
11 a hard time and I left home and I lived in Penn Station for a  
12 while. I was homeless, and I know what it is like for these  
13 people to be out there. I am just adding that because I need  
14 you to know what I do and who I am. And I know I make a lot of  
15 mistakes. I just heard on the news the other day that the  
16 average American commits three felonies a day and doesn't know  
17 it.

18 I am trying to find the correct words so that you take  
19 into your heart, just take into your heart that I will make  
20 this right. I can make this right. I am not some 23-year-old  
21 kid that ripped off a bank or a drugstore. I have a lot of  
22 intelligence. I am a smart person and I have this film  
23 business that somebody wants to start with me. It would be an  
24 amazing success and I could make restitution. I can try and  
25 rebuild my house, which is literally sinking. Right now there

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1 is no gas in my tanks for hot water and the electric is going  
2 to be shut off today, and I can prove that to you.

3 I am in a whirlwind. I am in a perfect storm, as Jeff  
4 Marder said in his letter, and I can't get out. I can't get  
5 out without your help. It's the only way. Everybody is going  
6 to tell you how bad I am, what a bad person I am. Why? I know  
7 I threatened Carl, but I never followed through with a threat  
8 in my life, not one.

9 Your Honor, my father told me never to beg no matter  
10 what, take your licks like a man. I am going to ask you as a  
11 man to man, please just see more than what is in front of you,  
12 please look further. All I ask is give me another chance.  
13 That's all I ask. You will not regret it. You will not regret  
14 it.

15 THE COURT: Thank you, Mr. Re.

16 THE DEFENDANT: Thank you, your Honor, for listening.

17 THE COURT: This is the government's opportunity to  
18 speak, and I will hear from the government whether there are  
19 any victims who wish to be heard orally. I have the written  
20 victim statements. I do want to take a moment to read the one  
21 that was handed up today.

22 (Pause)

23 THE COURT: How does the government wish to proceed?

24 MR. ADAMS: Thank you, your Honor.

25 I will begin just by identifying the victims who are

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1 in the courtroom today. Mr. McMaster, whose letter you have.  
2 It is my understanding that Mr. McMaster wishes to just rely on  
3 the letter that was submitted to you.

4 Mr. Szemansco is also here in the courtroom today, as  
5 is Mr. Karlsson. I checked with them before your Honor took  
6 the bench. They were still considering whether they wished to  
7 say anything.

8 THE COURT: You want to take a moment to find out?

9 MR. ADAMS: Yes, sir. Thank you.

10 (Pause)

11 MR. ADAMS: Thank you. Mr. Szemansco would like to  
12 say a few words to the Court. Mr. Karlsson will rest on his  
13 letter.

14 THE COURT: Mr. Szemansco, if you wish to be heard,  
15 you can come right up to the podium here.

16 Just please state your full name for the record, first  
17 and last name, and spell it if you will.

18 MR. SZEMANSCO: John Szemansco, S-Z-E-M-A-N-S-C-O.

19 THE COURT: Please proceed.

20 MR. SZEMANSCO: Thank you for giving me the  
21 opportunity.

22 I am glad I got a chance to hear Mr. Re speak because  
23 it reminded me of how convincing he is not only in the  
24 statements that he makes, but how convincing he was regarding  
25 the art over the period of years that I have known him.



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1           A couple of things have come to mind, and it's  
2 interesting regarding the storage shed, because Mr. Re knows  
3 very well how important provenance is, and knowing him he would  
4 have gone to the end of the earth to find out where those  
5 paintings came from instead of planting the shills in  
6 provenance.

7           It's not just the fact that I lost 32 years of my  
8 retirement. I will survive that. It's not the fact that I  
9 just pulled my third house out of foreclosure. I am surviving  
10 that. I think what is more important for you to consider, your  
11 Honor, is that the art world needs to be sent a message, and  
12 people who also create false art knowingly, as John Re did  
13 know, that needs to be sent very clear with a strong sentence  
14 and a maximum sentence for him.

15          John Re is a very smart individual. He is very  
16 calculating. John Re knew exactly what he was doing. He  
17 ordered a lot of notarized letters and statements regarding the  
18 provenance. He never wavered over it, over anywhere from five  
19 to six years. He lived it, breathed it, and I believe that at  
20 this particular point he should pay for it.

21          If John Re gets back out on this street, if he doesn't  
22 do this with art, he is going to do it with something else.  
23 His intentions of paying back his victims, the fact that a  
24 woodworker is going to pay back three, four million dollars,  
25 after he pays taxes on that money, it's impossible. I believe

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1 also John Re has that money; not all of it, I think he spent a  
2 lot of it, but he at one time told me they will never find the  
3 money. He has got it buried. Don't kid yourself.

4 I am really and truly hoping that there is justice  
5 here today, not only for myself, but for all the people in the  
6 art world who are fighting people like John Re, who are  
7 introducing these type of paintings and drawings that is  
8 confusing, manipulating, and victimizing a lot of other people  
9 that may not even find it out for years and years. So I am  
10 just asking for a maximum sentence on this, your Honor.

11 THE COURT: Thank you very much, sir.

12 I will hear from Mr. Adams.

13 MR. ADAMS: I was going to speak a bit about the  
14 victims in this case, who actually purchased art, and the  
15 millions of dollars that were spent on Mr. Re's paintings, but  
16 I think Mr. Szemansco eloquently spoke to that point.

17 What I would like to focus on instead, your Honor, is  
18 what, to me, is the lasting image of this case and sort of an  
19 emblematic image of this case. It is a breakfast table at a  
20 house in Long Island sometime in 1999. Barbara Schulte is  
21 there, it's her home, which is an unpretentious home in East  
22 Hampton. Ms. Schulte had cooked breakfast, she made muffins,  
23 and she was serving John Re and another woman, who was an art  
24 dealer. Mr. Re mentioned that person just a moment ago, a  
25 representative of Vered Gallery. And they were in Barbara

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1 Schulte's house in 1999 having breakfast. The art dealer was  
2 there to hear firsthand about the Schulte provenance, and she  
3 did. Mr. Re sat there. Ms. Schulte sat there. And they  
4 discussed the treasure-trove of artwork in the Schulte  
5 basement, and the Vered Gallery walked away with the impression  
6 that that provenance was real and that the artwork that Mr. Re  
7 was offering was substantiated.

8 That story is not a figment. That story is not a  
9 fantasy. That has been told to the government and agents of  
10 the government by Mr. Re himself. It's been told to the  
11 government by the Vered Gallery owner. And it was mentioned on  
12 a phone call from Barbara Schulte to a representative of the de  
13 Kooning Foundation, and there are notes of that call that I  
14 provided as an exhibit to my sentencing submission. That  
15 meeting happened.

16 To me, the picture of that conversation says a lot  
17 about the nature of this crime and the nature of this  
18 defendant. Mr. Re was willing to sit down across the table  
19 from Barbara Schulte, elderly, slipping a bit in her mind at  
20 that point, and to convince her that there was a trove of  
21 artwork in her own basement. And for whatever reason, whether  
22 because she herself believed it at that point or because she  
23 didn't have the power to contradict him, she sat there and was  
24 manipulated over and over again by Mr. Re so that he could make  
25 millions of dollars through the sale of these paintings. It's

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1 an image of exploitation. I think it speaks directly to the  
2 nature of this defendant and the nature of this crime that took  
3 place over the course of over a decade.

4 A lot of people lost a lot of money in this case. But  
5 I think the exploitation of Barbara Schulte, in her state at  
6 that time, and the memory of her husband, is really at the core  
7 of this defendant's crime. I think his nature, his  
8 characteristics, the nature of this crime, the pain that was  
9 wrought on his community, on the victims in this case, all of  
10 those speak towards an incarceratory sentence, and we stand by  
11 our recommendation that the guideline stipulation is eminently  
12 reasonable in this case.

13 Thank you.

14 THE COURT: This is the Court's statement of reasons  
15 for the sentence to be imposed on John Re.

16 In sentencing the defendant, I have considered all of  
17 the materials that I referenced at the outset of this  
18 proceeding. I have considered the very thoughtful and extended  
19 comments of Mr. Flood orally today, the statement of Mr. Re,  
20 the statement of Mr. Adams, and the statement from the victim.  
21 I have considered all of the factors under Section 3553(a). I  
22 need not recount all that I have considered, but I will touch  
23 on some of the matters that I have considered.

24 There is no question that John Re suffers from a  
25 mental illness. Millions of Americans do, and they do not

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1 commit criminal acts because of their mental illness. I am  
2 convinced that John Re committed his crimes not as a result of  
3 his mental illness, perhaps in part as a result of a desire to  
4 feel grandiose, but as I will say a little bit more about Dr.  
5 First, Dr. First himself states that while Mr. Re's criminal  
6 behavior does not appear to be a direct result of his  
7 psychiatric disorder, there is little question that these  
8 disorders had an impact on his behavior. I think that is a  
9 fair statement.

10 John Re is a facile liar. I say liar because lying  
11 has been a way of life for over a nine-year period. I say  
12 facile because he planned his deception well and was reasonably  
13 successful in carrying it out. He entered a plea of guilty to  
14 planning and engaging in a nine-year scheme to defraud persons  
15 into believing that they were purchasing original works of  
16 Jackson Pollock and Willem de Kooning with a provenance that  
17 made them real, when in truth the provenance was a lie. He  
18 sold 74 paintings under false pretenses, and the total amount  
19 of restitution owed by Mr. Re is \$2,225,807.

20 To effectuate the scheme, Re had to come up with a  
21 plausible story of how he acquired the paintings. Barbara  
22 Schulte was a convenient source of a story. Re repeatedly told  
23 victims that the paintings were given to George Schulte, a  
24 woodworker and antique restorer living and working in East  
25 Hampton, not far from where Pollock and de Kooning lived.

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1 Pollock died in 1956 and de Kooning in 1997, both were members  
2 of the New York School of Abstract Impressionism.

3 Re claimed that after the death of George Schulte, he  
4 had done some work for Barbara, including clearing her basement  
5 where the paintings were found. Re claimed that he had either  
6 purchased or was given the paintings by Barbara. It is  
7 undisputed that Barbara was suffering from dementia, although  
8 the degree and consistency of her condition are in dispute.  
9 She died in 2013.

10 Re produced documentation purportedly signed by  
11 Barbara showing a lawful transfer to Re. The statements about  
12 the provenance of the paintings was a pack of lies. In 2006,  
13 he sold 12 fake Pollocks to one art collector for \$894,500.  
14 The collector later confronted Re after a forensic expert  
15 determined they were fakes.

16 From 2005 through January 2012, he sold 58 purported  
17 Pollocks to another collector for \$519,890, a price well below  
18 market. This second collector had the works examined by the  
19 International Foundation for Art Research, who confirmed that  
20 the 45 submitted paintings were fakes.

21 I have listened to the audio recording of Re's  
22 interaction with the second collector. Re sounded in control  
23 and lucid. His lies benefited from facial plausibility. He  
24 showed supposed empathy for the victim, but then tried to  
25 appeal to greed. He argued that keeping quiet was the victim's

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1 best strategy for maintaining the value of the paintings and  
2 would also enable him to make restitution because he wouldn't  
3 be found out by law enforcement. At times he became a bully  
4 when he realized he was cornered, and this is said to be  
5 evidence of his pervasive mental illness.

6 A third collector bought three fake Pollocks for  
7 \$475,000, and was later threatened with bodily harm if he did  
8 not return two of the paintings.

9 Re sold one fake Pollock to a fourth collector  
10 residing in Texas. He offered to sell a Pollock to a fifth  
11 person, an art broker, in January 2014, and he also offered a  
12 fake Pollock on eBay using shill bidding.

13 John Re is 54 years of age. He is married with  
14 children aged 19 and 25. He was the victim of sexual abuse at  
15 the hands of a family member and others as a child. He has a  
16 long string of convictions dating back to age 20, disorderly  
17 conduct, assault in the second degree at age 24, escape from  
18 custody at age 27, criminal possession of stolen property at  
19 age 30, aggravated harassment in the second degree and false  
20 report of an incident at age 32, arising from a false bomb  
21 threat after he was laid off from a retail job, attempted  
22 possession of a forged instrument at 35, and other convictions.

23 He owns a submarine, which he calls Deep Quest, that  
24 he purchased for \$55,000 and now the value is at \$250,000. It  
25 is docked at a marina in East Hampton and is the subject of a

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1     restraining order from this court. He claims to have spent a  
2     million dollars to refurbish the submarine. A financial  
3     picture of Mr. Re's holdings is difficult to establish, in part  
4     because he has never filed a tax return.

5             Dr. First, a forensic psychiatrist, has diagnosed him  
6     with dissociative identity disorder, which at an earlier point  
7     in time was known as multiple personality disorder. First met  
8     the defendant after his arrest in this case and had two  
9     face-to-face sessions with him.

10            Notably, on the advice of counsel, Re declined to sign  
11    a HIPAA release that would have enabled probation to review his  
12    psychiatric records.

13            First, however, did speak to Re's physician, who  
14    reported that Re was under his care since 2001. I note that Re  
15    told probation that he first sought counseling with this  
16    doctor, Dr. Friedes, in 1999. Re acknowledged that a Dr.  
17    Bernie saw him for 12 sessions in the mid-2000s, but did not  
18    accept the notion that he suffered from dissociative disorder.

19            In a moment of candor with Dr. First, Re said as  
20    follows: "I lied. I will say things to make myself look good  
21    even if they are not true. I am smart enough to create a  
22    situation or an atmosphere where it seems to be true. Not big  
23    lies. Not lies that are really evil."

24            As I have said, I accept that Mr. Re suffers from a  
25    mental illness. I also accept that his wife is ill and his



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1 adult children have conditions requiring treatment. The fact  
2 that they have stood by him speaks well for Mr. Re. And I also  
3 note that there have been various points in his life when he  
4 has engaged in charitable acts towards other human beings,  
5 including a victim of a car crash and many homeless people.

6 As demonstrated by the lengthy audio recordings, John  
7 Re was able to persuade, cajole and parry with his victims. On  
8 the advice of his counsel, he declined to discuss his offense  
9 conduct with probation, as is his right.

10 Simply put, John Re is a con artist and a swindler.  
11 He excels at the art of manipulation and deception. He knew  
12 exactly what he was doing. He deserves just punishment. The  
13 public does need to be protected from this man. And this  
14 sentence should send a message to other persons who would be  
15 inclined to engage in a get-rich-quick scheme using fake art.

16 Principally, based upon the length of time of his  
17 deception and the depth of its planning, a nine-year period  
18 where he had ample time to consider and reflect on his actions,  
19 I conclude that a sentence somewhat above the advisory  
20 guideline range is appropriate.

21 The statutory provision is up to 20 years'  
22 imprisonment. The guideline range in this case is 37 to 46  
23 months. And I intend to impose a sentence of 60 months'  
24 imprisonment, three years' supervised release, waive the fine  
25 based on limited assets, limited earning ability and the need

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1 to make restitution, impose restitution in the amount of  
2 \$2,225,807, and impose forfeiture and a special assessment of  
3 \$100. The foregoing is, in my view, sufficient but not greater  
4 than necessary to achieve the purposes of Section 3553(a).

5 Does the defendant or his counsel have any objections  
6 to the Court's proposed sentence or to the statement of reasons  
7 for that sentence?

8 MR. FLOOD: We do object, your Honor.

9 THE COURT: Same question for the government.

10 MR. ADAMS: No objection, your Honor.

11 THE COURT: The defendant will please stand and I will  
12 impose sentence.

13 John Re, it is the judgment of this Court that you are  
14 hereby remanded to the custody of the United States Bureau of  
15 Prisons to be imprisoned for 60 months. Following release from  
16 imprisonment, you shall be placed on supervised release with  
17 the following terms and conditions:

18 You shall not commit another federal, state or local  
19 crime.

20 You shall not illegally possess a controlled  
21 substance.

22 You shall not possess a firearm or destructive device.

23 You shall refrain from unlawful use of a controlled  
24 substance.

25 You shall submit to one drug test within 15 days of

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1 placement on supervised release and at least two unscheduled  
2 drug tests thereafter.

3           You shall cooperate in the collection of DNA as  
4 directed by probation.

5           The standard conditions of supervision 1 through 13  
6 are imposed with the following special conditions:

7           You shall participate in a mental health program  
8 approved by the probation office and shall continue to take any  
9 prescribed medications unless otherwise instructed by the  
10 health care provider. You shall contribute to the costs of  
11 services rendered not covered by third party payment.

12           The Court authorizes release of available  
13 psychological and psychiatric evaluations and reports to the  
14 health care provider.

15           You shall provide probation with access to any  
16 requested financial information.

17           You shall not incur any new credit card charges or  
18 open additional lines of credit without the approval of the  
19 probation officer.

20           You shall submit your person, place of business,  
21 vehicle and any other property -- computers, electronic  
22 communications, data storage devices and/or media -- under your  
23 control to a search on the basis that the probation officer has  
24 reasonable suspicion that contraband or evidence of a violation  
25 of the conditions of release may be found. The search must be

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1 conducted at a reasonable time and in a reasonable manner.  
2 Failure to submit to a search may be grounds for revocation.  
3 You shall inform other residents that the premises may be  
4 subject to search pursuant to this condition.

5 You shall report to the nearest probation office  
6 within 72 hours of release from custody.

7 You shall make restitution in the amount of \$2,225,807  
8 in accordance with the proposed order of restitution which has  
9 been tendered to the Court.

10 Is there any objection, Mr. Flood?

11 MR. FLOOD: No.

12 THE COURT: I will sign the order of restitution and  
13 it is so ordered.

14 Based on limited assets, limited earning ability, the  
15 fine is waived, and particularly based on the need to make  
16 restitution.

17 It is further ordered that you shall pay to the United  
18 States a special assessment of \$100, which shall be due  
19 immediately.

20 You shall forfeit to the United States a sum of money  
21 equal to 2.5 million in U.S. currency representing the amounts  
22 of proceeds obtained, directly or indirectly, as a result of  
23 the offense.

24 Mr. Flood, any objection to the proposed consent  
25 preliminary order of forfeiture money judgment?

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1 MR. FLOOD: No, sir.

2 We will be seeking that the restoration program from  
3 the Department of Justice apply the forfeiture payments to  
4 restitution.

5 THE COURT: That is something that you will apply to  
6 the Department of Justice on, is that correct?

7 MR. FLOOD: I believe that's automatic. I am putting  
8 the government on notice of that.

9 THE COURT: Any objection to the preliminary order of  
10 forfeiture as to the submarine?

11 MR. FLOOD: No.

12 THE COURT: I am signing that.

13 Mr. Re, you have the right to appeal the sentence I  
14 have imposed on you. If you cannot afford the cost of an  
15 appeal, you may apply for leave to appeal as a poor person.  
16 The time limits for filing a notice of appeal are brief and  
17 they are strictly enforced. If you request, the clerk of court  
18 will prepare and file a notice of appeal on your behalf  
19 immediately.

20 Do you understand that?

21 THE DEFENDANT: Yes.

22 THE COURT: I will recommend that the Bureau of  
23 Prisons evaluate Mr. Re for appropriate physical and mental  
24 health treatment.

25 A designation request, Mr. Flood?

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1           MR. FLOOD: We would like the Court to recommend that  
2 he be housed as close as possible, consistent with his  
3 designation score, to the eastern end of Long Island where his  
4 family resides.

5           THE COURT: So recommended.

6           The defendant is remanded in view of the risk and  
7 danger that there could be self-injury, which I will not take.  
8 So the defendant is remanded.

9           MR. FLOOD: We ask the Court to reconsider that. He  
10 has been on pretrial release now for quite some time, I believe  
11 over a year. His performance has been excellent. He has had  
12 no issues while on pretrial release whatsoever. I don't know  
13 the government's position on this, but to get his affairs in  
14 order we would ask for a surrender date.

15          THE COURT: The fact of the matter is the defendant  
16 entered a guilty plea on December 1, 2014. Up until today his  
17 fate was unknown. He urged, and I understand, he urged a  
18 nonincarceratory sentence, and he has now learned his fate. My  
19 concern is about his physical well-being, and I am not prepared  
20 to take the risk.

21          Any objection by the government to remand?

22          MR. ADAMS: No, your Honor.

23          THE COURT: Anything further from the government?

24          MR. ADAMS: No, your Honor.

25          THE COURT: Any open counts?

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1 MR. ADAMS: There are none.

2 THE COURT: Anything further from the defendant?

3 MR. FLOOD: No.

4 THE COURT: We are adjourned.

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